

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

MARGARET A. WHALEN,

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:06CV94-P-A

THE KROGER COMPANY,

DEFENDANT.

ORDER

In accordance with a Memorandum Opinion issued this day, **IT IS ORDERED AND ADJUDGED** that:

(1) Defendant's Motion for Summary Judgment [33] is **DENIED**; and
(2) Plaintiff's Motion to Strike and Exclude from Evidence the Affidavit of M. Leslie Davis and the Exhibits Attached Thereto [38] is **GRANTED**.

SO ORDERED this the 9th day of July, A.D., 2007.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE